

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
1998 Biennial Regulatory Review –)	CC Docket No. 98-171
Streamlined Contributor Reporting)	
Requirements Associated with Administration)	
of Telecommunications Relay Service, North)	
American Numbering Plan, Local Number)	
Portability, and Universal Service Support)	
Mechanisms)	
)	
Telecommunications Services for Individuals)	CC Docket No. 90-571
with Hearing and Speech Disabilities, and the)	
Americans with Disabilities Act of 1990)	
)	
Administration of the North American)	CC Docket No. 92-237
Numbering Plan and North American)	NSD File No. L-00-72
Numbering Plan Cost Recovery Contribution)	
Factor and Fund Size)	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170

REPLY COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (“VON Coalition”) hereby files these Reply Comments in the above-captioned proceeding in which the Commission is considering revising its methodology for calculating contributions to the Universal Service Fund (“USF”). For the reasons stated herein, the VON Coalition supports the proposed contribution methodology that assesses providers of switched connections based on their working telephone numbers.

Background

VON Coalition. The VON Coalition consists of companies that are developing and offering voice products and services for use on the Internet and Internet Protocol (“IP”) networks.¹ Largely through the efforts of VON Coalition members, packet-switched voice services (termed “Voice over Internet Protocol” or “VoIP”) are emerging as an exciting new technology benefiting consumers throughout the world. The VON Coalition has consistently advocated that the Commission maintain its current policy of refraining from extending legacy regulations such as USF obligations to Internet services, including VoIP.²

Second FNPRM. Under the Commission’s current methodology for assessing contributions to the USF, contributions are calculated based upon a carrier’s end-user telecommunications revenues. In the *First Further Notice of Proposed Rulemaking* (“*First FNPRM*”) in this proceeding, the Commission considered revamping this methodology by instead assessing a carrier’s universal service contributions based on the number and capacity of that carrier’s end-user connections to the public network.³ The Commission noted that this approach may provide greater certainty to carriers, reduce administrative costs, avoid market distortions, and simplify the USF regime. *Id.* at ¶ 17. The VON Coalition filed Reply Comments in May 2002 supporting this approach.⁴

¹ Additional information regarding the VON Coalition is available on its website, <http://www.von.org>.

² See Voice on the Net Coalition, White Paper on IP Voice Services, CC Docket No. 96-45 (March 18, 1998); Comments of the VON Coalition, WC Docket No. 02-361 (December 18, 2002).

³ *In the Matter of Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., *Further Notice of Proposed Rulemaking and Report and Order*, FCC 02-43 (rel. Feb. 26, 2002) (“*First FNPRM*”).

⁴ Reply Comments of the VON Coalition, CC Docket No. 96-45 et al (May 13, 2002).

In the above-captioned *Second Further Notice of Proposed Rulemaking* (“*Second FNPRM*”),⁵ the Commission notes that many commenters on the *First FNPRM* agreed that a connection-based contribution methodology would best ensure the long-term viability of the Commission’s universal service mechanism. *Id.* at ¶ 5. Nonetheless, the Commission states that a number of commenters differed on how best to implement such a mechanism. *Id.* Among the disagreements was whether to make the provider of the end-user connection solely responsible for contributions or whether to share that responsibility between the access and transport provider, how best to calculate assessments for higher-capacity connections, and how to estimate assessments for multi-line business connections. *Id.*

In the *Second FNPRM*, the Commission seeks further input on revising its current USF contribution methodology. Under one of its proposals, the Commission would assess providers of switched connections based on their working telephone numbers and assess special access and private lines that do not have assigned numbers on the basis of the capacity of those connections. *Second FNPRM* at ¶¶ 96-100.

Discussion

The VON Coalition supports the telephone number-based methodology for assessing contributions to the USF.⁶ The merits of a telephone number-based contribution methodology

⁵ *In the Matter of Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., *Report and Order and Second Further Notice of Proposed Rulemaking*, FCC 02-329 (rel. Dec. 13, 2002) (“*Second FNPRM*”).

⁶ The VON Coalition agrees with Sprint that the number-based mechanism should be implemented without applying capacity-based assessments on special access and private lines as suggested in the *Second FNPRM*. *Second FNPRM* at ¶ 98; see Comments of Sprint Corporation, CC Docket No. 96-45 et al (February 28, 2003), at 16-17 (“Sprint”). As Sprint notes, telephone numbers are often associated with special access and private lines thus eliminating the need for capacity-based assessments. Comments of Sprint at 16.

are similar to those of the connection-based methodology proposed in the *First FNPRM*. *First FNPRM* at ¶ 17. As the VON Coalition discussed in its May 2002 Reply Comments in response to the *First FNPRM*, a connection-based USF contribution methodology will ensure that USF payments are assessed in a fair and economically efficient manner, will avoid the need for the Commission and carriers to address complex definitional issues, and will vastly simplify the current USF regime.⁷ The same holds true for a telephone number-based contribution method. First, a telephone number-based assessment will ensure that USF contributions are assessed in an economically efficient manner, eliminating the distorting impact on demand for telecommunications services that plagues the current revenue-based assessment methodology whereby non-traffic sensitive costs are recovered on a usage-sensitive basis. Second, by basing contributions on telephone numbers, the Commission can ensure that the USF has a stable and sustainable funding base.⁸ Third, a telephone number-based methodology will avoid the need for the Commission and carriers to address complex definitional issues regarding which services and revenues are subject to USF contributions.⁹ Fourth, a telephone number-based methodology will simplify the current USF regime both for consumers, by eliminating the need to pay USF fees to both their local and long distance carriers, and for carriers, by avoiding the administrative costs of identifying which revenues are subject to a USF assessment.¹⁰

⁷ Reply Comments of the VON Coalition, CC Docket No. 96-45 et al (May 13, 2002).

⁸ Comments of Ad Hoc Telecommunications Users Committee, CC Docket No. 96-45 et al (February 28, 2003), at 5-6 (“AHTUC”); Comments of AT&T Corporation, CC Docket No. 96-45 et al (February 28, 2003), at 29 (“AT&T”); Comments of Michigan Public Service Commission, CC Docket No. 96-45 et al (February 28, 2003), at 3 (“MPSC”); Comments of Sprint at 18 .

⁹ Comments of AT&T at 27-28.

¹⁰ Comments of AHTUC at 2-3, 6; Comments of MPSC at 3.

In addition to the foregoing, a telephone number-based contribution mechanism does not implicate the exclusive state jurisdiction over intrastate telephone service provided in Section 2(b) of the Communications Act. 47 U.S.C. § 152(b). In response to the *First FNPRM*, some commenters argued that a connection-based assessment methodology would be an illegal assessment on intrastate revenues in violation of Section 2(b). *Second FNPRM* at ¶ 96. A number-based contribution mechanism avoids this potential issue because the Commission's exclusive jurisdiction over the North American Numbering Plan ("NANP") provides it with plenary authority to adopt a number-based contribution mechanism.¹¹ In addition, a number-based contribution mechanism ensures that all providers of telecommunications services contribute to the USF in a non-discriminatory manner.¹² Local, long distance, and wireless carriers all provide telephone numbers to their customers and will therefore all be required to contribute to the USF under a number-based contribution mechanism. Thus, a number-based contribution mechanism will be "equitable and nondiscriminatory" as required by Sections 254(b)(5) and 254(d) of the Communications Act. 47 U.S.C. §§ 254(b)(5); 254(d).

In their Comments, BellSouth, SBC, and Sprint argue that VoIP is responsible for the supposed lack of sustainability of the current revenue-based USF contribution methodology, arguing that long distance carriers are converting to VoIP services to avoid USF obligations.¹³ They ask the Commission to take action to prevent VoIP from eroding the USF revenue base.¹⁴

¹¹ 47 U.S.C. § 251(e)(1) ("The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States."); *see Second FNPRM* at ¶ 96; *see also* Comments of AHTUC at 7-8; Comments of AT&T at 37.

¹² Comments of AHTUC at 7; Comments of AT&T at 29-34; Comments of Sprint at 16.

¹³ Joint Comments of SBC Communications Inc. and BellSouth Corporation, CC Docket No. 96-45 et al (February 28, 2003), at 5 ("SBC/BellSouth"); Comments of Sprint at 5.

¹⁴ Comments of SBC/BellSouth at 6; Comments of Sprint at 5.

The VON Coalition urges the Commission to avoid using this proceeding to take any action that would generally impose USF obligations on VoIP providers. First, BellSouth, SBC, and Sprint provide no evidence that VoIP is responsible for any supposed erosion of the USF contribution base. Second, the regulatory classification of VoIP is being considered in other proceedings and it is beyond the scope of the present proceeding.¹⁵ Third, as the VON Coalition has demonstrated in these proceedings, VoIP remains a nascent industry and premature Commission intervention risks stifling the innovation and competition that are hallmarks of nascent industries.¹⁶

Conclusion

For the reasons stated above, the VON Coalition urges the Commission to adopt the telephone number-based USF contribution methodology.

Respectfully submitted,

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¹⁵ See Petition for Declaratory Ruling that pulver.com's Free World Dialup Is Neither Telecommunications Nor a Telecommunications Service, WC Docket No. 03-45, DA 03-439 (Feb. 14, 2003); Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges, WC Docket No. 02-361, DA 02-3184 (November 18, 2002).

¹⁶ Comments of the VON Coalition, WC Docket No. 03-34 (March 14, 2003); Comments of the VON Coalition, WC Docket No. 02-361 (December 18, 2002).